

## § 490.1

### Subpart A—General Provisions

#### § 490.1 Purpose and Scope.

(a) The provisions of this part implement the alternative fuel transportation program under titles III, IV, V, and VI of the Energy Policy Act of 1992. (Pub. L. 102-486)

(b) The provisions of this subpart cover:

(1) The definitions applicable throughout this part;

(2) Procedures to obtain an interpretive ruling and to petition for a generally applicable rule to amend this part; and

(3) The goal of the replacement fuel supply and demand program established under section 502(a) of the Act (42 U.S.C. 13252(a)).

[61 FR 10653, Mar. 14, 1996, as amended at 72 FR 12060, Mar. 15, 2007]

#### § 490.2 Definitions.

The following definitions apply to this part—

*Acquire* means to take into possession or control.

*Act* means the Energy Policy Act of 1992 (Pub. L. 102-486) and any amendments thereof.

*After-Market Converted Vehicle* means an Original Equipment Manufacturer vehicle that is reconfigured by a conversion company, which is not under contract to the Original Equipment Manufacturer, to operate on an alternative fuel and whose conversion kit components are under warranty of the conversion company.

*Alternative Fuel* means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials (including neat biodiesel); three P-series fuels (specifically known as Pure Regular, Pure Premium and Pure Cold Weather) as described by United States Patent number 5,697,987, dated December 16, 1997, and containing at least 60 percent non-petroleum energy content derived from methyltetrahydrofuran, which must be manufactured solely

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from biological materials, and ethanol, which must be manufactured solely from biological materials; and electricity (including electricity from solar energy).

*Alternative Fueled Vehicle* means a dedicated vehicle or a dual fueled vehicle (including a flexible fuel vehicle as defined by this section).

*Assistant Secretary* means the Assistant Secretary for Energy Efficiency and Renewable Energy or any other DOE official to whom the Assistant Secretary's duties under this part may be redelegated by the Secretary.

*Automobile* means a 4-wheeled vehicle propelled by conventional fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at

(1) Not more than 6,000 pounds gross vehicle weight; or

(2) More than 6,000, but less than 10,000 pounds gross vehicle weight, if the Secretary of Transportation has decided, by rule, that the vehicle meets the criteria in section 501(1) of the Motor Vehicle Information and Cost Savings Act, as amended, 49 U.S.C. 32901(a)(3).

*Capable of Being Centrally Fueled* means a vehicle can be refueled at least 75 percent of its time at the location that is owned, operated, or controlled by the fleet or covered person, or is under contract with the fleet or covered person for refueling purposes.

*Centrally Fueled* means that a vehicle is fueled at least 75 percent of the time at a location that is owned, operated, or controlled by the fleet or covered person, or is under contract with the fleet or covered person for refueling purposes.

*Control*—

(1) When it is used to determine whether one person controls another or whether two persons are under common control, means any one or a combination of the following:

(i) A third person or firm has equity ownership of 51 percent or more in each of two firms; or

(ii) Two or more firms have common corporate officers, in whole or in substantial part, who are responsible for the day-to-day operation of the companies; or

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(iii) One person or firm leases, operates, or supervises 51 percent or more of the equipment and/or facilities of another person or firm; owns 51 percent or more of the equipment and/or facilities of another person or firm; or has equity ownership of 51 percent or more of another person or firm.

(2) When it is used to refer to the management of vehicles, means a person has the authority to decide who can operate a particular vehicle, and the purposes for which the vehicle can be operated.

*Covered Person* means a person that owns, operates, leases, or otherwise controls—

(1) A fleet, as defined by this section, that contains at least 20 light duty motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more (as set forth in Appendix A to this subpart) or in a *FEDERAL REGISTER* notice; and

(2) At least 50 light duty motor vehicles within the United States.

*Dealer Demonstration Vehicle* means any vehicle that is operated by a motor vehicle dealer solely for the purpose of promoting motor vehicle sales, either on the sales lot or through other marketing or sales promotions, or for permitting potential purchasers to drive the vehicle for pre-purchase or pre-lease evaluation.

*Dedicated Vehicle* means—

(1) An automobile that operates solely on alternative fuel; or

(2) A motor vehicle, other than an automobile, that operates solely on alternative fuel.

*DOE* means the Department of Energy.

*Dual Fueled Vehicle* means—

(1) An automobile that meets the criteria for a dual fueled automobile as that term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act, 49 U.S.C. 32901(a)(8); or

(2) A motor vehicle, other than an automobile, that is capable of operating on alternative fuel and on gasoline or diesel fuel; or

(3) A flexible fuel vehicle.

*Electric-hybrid Vehicle* means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells or other sources of electric current and also relies on a non-electric source of power.

*Electric Motor Vehicle* means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle.

*Emergency Motor Vehicle* means any vehicle that is legally authorized by a government authority to exceed the speed limit to transport people and equipment to and from situations in which speed is required to save lives or property, such as a rescue vehicle, fire truck or ambulance.

*Fleet* means a group of 20 or more light duty motor vehicles, excluding certain categories of vehicles as provided by section 490.3, used primarily in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census as of December 31, 1992, with a 1980 Census population of more than 250,000 (listed in Appendix A to this Subpart), that are centrally fueled or capable of being centrally fueled, and are owned, operated, leased, or otherwise controlled—

(1) By a person who owns, operates, leases, or otherwise controls 50 or more light duty motor vehicles within the United States and its possessions and territories;

(2) By any person who controls such person;

(3) By any person controlled by such person; and

(4) By any person under common control with such person.

*Flexible Fuel Vehicle* means any motor vehicle engineered and designed to be operated on any mixture of two or more different fuels.

*Law Enforcement Motor Vehicle* means any vehicle which is primarily operated by a civilian or military police officer or sheriff, or by personnel of the Federal Bureau of Investigation, the Drug Enforcement Administration, or

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other enforcement agencies of the Federal government, or by State highway patrols, municipal law enforcement, or other similar enforcement agencies, and which is used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, and surveillance of people engaged in or potentially engaged in unlawful activities.

*Lease* means the use and control of a motor vehicle for transportation purposes pursuant to a rental contract or similar arrangement with a term of 120 days or more.

*Light Duty Motor Vehicle* means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. § 7550(7)), having a gross vehicle weight rating of 8,500 pounds or less, before any after-market conversion to alternative fuel operation.

*Model Year* means the period from September 1 of the previous calendar year through August 31.

*Motor Vehicle* means a self-propelled vehicle, other than a non-road vehicle, designed for transporting persons or property on a street or highway.

*Non-road Vehicle* means a vehicle not licensed for on-road use, including such vehicles used principally for industrial, farming or commercial use, for rail transportation, at an airport, or for marine purposes.

*Original Equipment Manufacturer* means a manufacturer that provides the original design and materials for assembly and manufacture of its product.

*Original Equipment Manufacturer Vehicle* means a vehicle engineered, designed, produced and warranted by an Original Equipment Manufacturer.

*Person* means any individual, partnership, corporation, voluntary association, joint stock company, business trust, Governmental entity, or other legal entity in the United States except United States Government entities.

*State* means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

*Used Primarily*, as utilized in the definition of "fleet," means that a majority

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of a vehicle's total annual miles are accumulated within a covered metropolitan or consolidated metropolitan statistical area.

[61 FR 10653, Mar. 14, 1996, as amended at 64 FR 26829, May 17, 1999]

#### **§ 490.3 Excluded vehicles.**

When counting light duty motor vehicles to determine under this part whether a person has a fleet or to calculate alternative fueled vehicle acquisition requirements, the following vehicles are excluded—

(a) Motor vehicles held for lease or rental to the general public, including vehicles that are owned or controlled primarily for the purpose of short-term rental or extended-term leasing, without a driver, pursuant to a contract;

(b) Motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(c) Motor vehicles used for motor vehicle manufacturer product evaluations or tests, including but not limited to, light duty motor vehicles owned or held by a university research department, independent testing laboratory, or other such evaluation facility, solely for the purpose of evaluating the performance of such vehicle for engineering, research and development or quality control reasons;

(d) Law enforcement vehicles;

(e) Emergency motor vehicles;

(f) Motor vehicles acquired and used for purposes that the Secretary of Defense has certified to DOE must be exempt for national security reasons;

(g) Nonroad vehicles; and

(h) Motor vehicles which, when not in use, are normally parked at the personal residences of the individuals that usually operate them, rather than at a central refueling, maintenance, or business location.

#### **§ 490.4 General information inquiries.**

DOE responses to inquiries with regard to the provisions of this part that are not filed in compliance with §§ 490.5 or 490.6 of this part constitute general information and the responses provided shall not be binding on DOE.